

45-1-104

CRIMES

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(3) The provisions of this code do not apply to any offense defined outside of this code and committed before January 1, 1974. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this code had not been enacted.

History: En. 94-1-103 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 7, Ch. 359, L. 1977; R.C.M. 1947, 94-1-103.

Cross-References

Other limitations as to applicability, 45-1-104.
Classification and limitations, 45-1-201 through 45-1-206.
Definitions and state of mind, 45-2-101 through 45-2-104.
Other factors affecting individual liability, 45-2-201 through 45-2-213.
Liability for acts committed by another, 45-2-301 through 45-2-312.
Justifiable use of force, 45-3-101 through 45-3-115.

45-1-104. Other limitations on applicability. (1) This code does not bar, suspend, or otherwise affect any right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered, and the civil injury is not merged into the offense.

(2) No conduct constitutes an offense unless it is described as an offense in this code or in another statute of this state. However, this provision does not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order, civil judgment, or decree.

History: En. 94-1-104 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-1-104.

Cross-References

Sentence, Title 46, ch. 18.

**Part 2
Classification and Limitations**

45-1-201. Classification of offenses. (1) For the determination of the court's jurisdiction at the commencement of the action and for the determination of the commencement of the period of limitations, the offense shall be designated a felony or misdemeanor based upon the maximum potential sentence which could be imposed by statute.

(2) An offense defined by any statute of this state other than this code shall be classified as provided in this section, and the sentence that may be imposed upon conviction thereof shall be governed by this title and Title 46.

History: En. 94-1-105 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 8, Ch. 359, L. 1977; R.C.M. 1947, 94-1-105.

Cross-References

Application to offenses committed before and after enactment, 45-1-103.
Time limitations, 45-1-205, 45-1-206.
Definition of felony, 45-2-101.
Definition of misdemeanor, 45-2-101.
Deliberate homicide, 45-5-102.
Aggravated kidnapping, 45-5-303.
Burglary, 45-6-204.
Compounding a felony, 45-7-305.
When no penalty specified, 46-18-211 through 46-18-213.

45-1-202 through 45-1-204 reserved.

45-1-205. General time limitations. (1) (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) A prosecution for a felony offense under 45-5-502, 45-5-503, or 45-5-507(4) may be commenced within 10 years after it is committed, except that it may be commenced within 10 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred. A prosecution for a misdemeanor offense under those provisions may be commenced within 1 year after the offense is committed, except that it may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

(c) A prosecution under 45-5-504, 45-5-505, 45-5-507(1), (2), (3), or (5), 45-5-625, or 45-5-627 may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.

(2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

Except as provided in subsection (9)

- (a) A prosecution for a felony must be commenced within 5 years after it is committed.
- (b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.
- (3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:
 - (a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination of the minority or incompetency;
 - (b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.
- (4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.
- (5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.
- (6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be brought within 3 years after an offense is committed.
- (7) (a) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.
- (b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over the property, except that the prosecution must be commenced within 1 year after the investigating officer discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.
- (8) A prosecution is commenced either when an indictment is found or an information or complaint is filed.

History: En. 94-1-106 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 9, Ch. 359, L. 1977; R.C.M. 1947, 94-1-106; amd. Sec. 4, Ch. 485, L. 1981; amd. Sec. 1, Ch. 227, L. 1985; amd. Sec. 1, Ch. 294, L. 1989; amd. Sec. 1, Ch. 435, L. 1989; amd. Sec. 1, Ch. 277, L. 1991; amd. Sec. 17, Ch. 220, L. 1993; amd. Sec. 2, Ch. 560, L. 1993; amd. Sec. 1, Ch. 247, L. 1995; amd. Sec. 1, Ch. 530, L. 2001.

Cross-References

- Classification of offenses, 45-1-201.
- Definition of felony, 45-2-101.
- Definition of misdemeanor, 45-2-101.
- Homicide, 45-5-102 through 45-5-104.
- Theft and related offenses, Title 45, ch. 6, part 3.
- Methods of commencing prosecution, Title 46, ch. 11, parts 1 through 3.
- Filing of information, 46-11-201, 46-11-203.
- Guardians of incapacitated persons, 72-5-301 through 72-5-325.

45-1-206. Periods excluded from limitation. The period of limitation does not run during:

- (1) any period in which the offender is not usually and publicly resident within this state or is beyond the jurisdiction of this state;
- (2) any period in which the offender is a public officer and the offense charged is theft of public funds while in public office; or
- (3) a prosecution pending against the offender for the same conduct, even if the indictment, complaint, or information which commences the prosecution is dismissed.

History: En. 94-1-107 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-1-107.

Cross-References

- Rules for determining residence, 1-1-215.

9 New Section (2)

If, after the time periods prescribed in subsections 1(b) and 1(c) have expired, a suspect is conclusively identified by DNA testing, a prosecution may be commenced within 1 year after ^athe suspect is conclusively identified by DNA testing.

technique or means capable of causing property damage, bodily injury, or death, with the purpose of employing the training, instruction, or practice in a civil disorder.

(2) A person convicted of violating the provisions of subsection (1) is guilty of a felony and shall be imprisoned in the state prison for a period not to exceed 10 years or be fined not to exceed \$50,000, or both.

(3) Subsection (1) does not prohibit:

- (a) an act protected pursuant to Article II of the Montana constitution;
- (b) an act of a governmental military force;
- (c) an act of a peace officer performed in the lawful performance of the officer's duties;
- (d) an authorized activity of the department of fish, wildlife, and parks; the department of corrections; a law enforcement agency; or the law enforcement academy;
- (e) training in nonviolent civil disobedience techniques;
- (f) lawful self-defense or defense of others or an activity intended to teach or practice self-defense or self-defense techniques; or
- (g) a facility, program, or lawful activity related to firearms instruction or training intended to teach the safe handling and use of firearms or activities or sports related to recreational use or possession of firearms.

(4) Sections 45-8-107 through 45-8-109 do not apply to an employer or employees involved in a labor dispute.

History: En. Sec. 3, Ch. 492, L. 1991; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 201, Ch. 546, L. 1995.

45-8-110. Obstructing health care facility access. (1) A person commits the offense of obstructing health care facility access if the person knowingly obstructs, hinders, or blocks another person's entry into or exit from a health care facility. Commission of the offense includes but is not limited to knowingly approaching within 8 feet of a person who is entering or leaving a health care facility to give the person written or oral information, to display a sign, or to protest, counsel, or educate about a health issue, when the person does not consent to that activity and is within 36 feet of an entrance to or exit from the health care facility.

(2) A person convicted under this section shall be fined an amount not to exceed \$100.

(3) For purposes of this section, "health care facility" means an office of a medical practitioner, as defined in 37-2-101, or any other facility or entity that is licensed, certified, or otherwise authorized by law to administer medical treatment in this state.

History: En. Sec. 1, Ch. 331, L. 2005.

Compiler's Comments

Effective Date: This section is effective October 1, 2005.

45-8-111. Public nuisance. (1) "Public nuisance" means:

- (a) a condition which endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;
- (b) any premises where persons gather for the purpose of engaging in unlawful conduct; or
- (c) a condition which renders dangerous for passage any public highway or right-of-way or waters used by the public.

(2) A person commits the offense of maintaining a public nuisance if he knowingly creates, conducts, or maintains a public nuisance.

(3) Any act which affects an entire community or neighborhood or any considerable number of persons (as specified in subsection (1)(a)) is no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

(4) No agricultural or farming operation, place, establishment, or facility or any of its appurtenances or the operation thereof is or becomes a public nuisance because of the normal operation thereof as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation.

(5) Noises resulting from the shooting activities at a shooting range during established hours of operation are not considered a public nuisance.